IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION Nos. 4720, 19607, 19634, 19839, 19846, 19915, 19927, 19931, 19993, 20096, 20248, 20312, 20340, 20399, 20580, 20717, 21112 of 2003 and 3816 and 7657 of 2004

-

WRIT PETITION NO : 4720 of 2003:

Between:

V.Prameela, w/o.Lakshmi Narayana, r/o.Kondapalli

village, Ibrahimpatnam mandal, Krishna district … Petitioner

and

1)State of Andhra Pradesh, rep. by its Secretary

to the Government, Industries and Commerce (Mines-II)

Department, Secretariat buildings, Hyderabad.

2)The District Collector, Krishna district, Machilipatnam.

3)The Deputy Director of Mines and Geology,

Department of Mines, Kakinada, East Godavari dist.

4)The Assistant Director of Mines and Geology,

Department of Mines, Veterinary Colony,

Ring Road, Vijayawada, Krishna district … Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate Writ, Order or Direction more particularly one in the nature of a Writ of Mandamus directing the third respondent not to cancel the lease granted in favour of the petitioner for a period of 10 years from 22.5.1996 to 21.5.2006 in pursuance of the proceedings of the Assistant Director of Mines and Geology, Vijayawada in his proceedings No.610/Q/96, dated 22.5.1996 by declaring the action of the respondents as illegal and void.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents : GP FOR INDUSTRIES & COMMERCE

-

-

-

-

-

-

WRIT PETITION NO : 19607 of 2003

Between:
M/s. Sri Vijayalaxmi Stone Crusher, plot No. 25,
1st Lane, R.T.C.Colony, Vijayawada, Krishna Dt. …Petitioner

AND

1 State of Andhra Pradesh, rep.by its Secretary to Govt., Industries & Commerce (Mines-II) Department, Secretariat, Buildings, Hyderabad
2 The Dist.Collector, Krishna District., Machilipatnam
3 The Deputy Director of Mines & Geology, Department of Mines, Kakinada, East Godavari Dist.
4 The Assistant Director of Mines & Geology, Department of Mines, Veterinary Colony, Ring Road, Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction more particularly one in the nature of a writ of Mandamus directing the 3rd respondent not to cancel the lease granted in favour of the petitioner for a period of 10 years from 2-1-1996 to 1-1-2006 in pursuance of the proceedings of the Assistant Director of Mines & Geology, Vijayawada in his proceedings No. 2062/Q/95, dated 12-11-1998 by declaring the action of the Respondents as illegal and void.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents : GP FOR INDUSTRIES & COMMERCE

WRIT PETITION NO : 19634 of 2003:

Between:
M/s. Kondapalli Stone Crusher, Kondapalli Village,
Ibrahimpatnam Mandal, Krishna District,
rep. by its Managing Partner, Sri P.Venkateswara Rao … Petitioner

AND

1 State of A.P., rep., by its Secretary to Govt., Industries and Commerce (Mines-II) Department, Secretariat Buildings, Secretariat, Hyderabad.
2 The District Collector, Krishna District, Machilipatnam.
3 The Deputy Director of Mines and Geology, Department of Mines, Kakinada, E.G.District.
4 The Assistant Director of Mines and Geology, Department of Mines, Veterinary Colony, Ring Road, Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction more particularly one in the nature of a writ of Mandamus directing the 3rd respondent not to cancel the lease granted in favour of the petitioner for a period of 15 years from 27-10-1993 to 26-10-2008 in pursuance of the proceedings of the Assistant Director of Mines and Geology, Vijayawada in his proceedings No.1879/Q/93 dated 27-10-1993 by declaring the action of the respondents as illegal and void.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents : GP FOR INDUSTRIES & COMMERCE

WRIT PETITION NO : 19839 of 2003:

Between:

M.V. Narayana Rao, S/o. M. Raghavaiah,
Kondapalli, Ibrahimpatnam Mandal, Krishna District.

..... PETITIONER

AND

1 State of Adhra Pradesh, rep. by its Secretary to Government,
Industries and Commerce (Mines-II) Department,
Secretariat buildings, Secretariat, Hyderabad.
2 The District Collector, Krishna District, Machilipatnam
3 The Deputy Director of Mines and Geology, Department of Mines,
Kaiknada, East Godavari District.
4 The Assistant Director of Mines and Geology, Department of Mines,
Kakinada, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ order or direction more particularly one in the nature of Writ of Mandamus directing the 3rd Respondent not to cancel the lease granted in favour of the Petitioner for a period of 10 years from 12.11.1997 to 11.11.2007 in pursuance of the proceedings of the Assistant Director of Mines and Geology, Vijayawada in his proceedings No. 4512/Q/97 dated 10.11.1997 by declaring the action of the Respondents as illegal and void.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents : GP FOR INDUSTRIES & COMMERCE

-

-

-

-

-

WRIT PETITION NO : 19846 of 2003 :

Between:

M/s. Sudha Stone Crusher, Kondapalli Village, Ibrahimpatnam
Mandal, Krishna District. Properitor, P. Sudha,
rep. by her G.P.A. Holder, P. Venkateswara Rao, ..**PETITIONER**

AND
1 State of Andhra Pradesh, Rep. by its Secretary to Government, Industries
and Commerce (Mines-II) Department, Secretariat Buildings, Hyderabad.
2 The District Collector, Krishna District, Machilipatnam.
3 The Deputy Director of Mines and Geology, Departmnet of Mines,
Kakinada, East Godavari District.
4 The Assistant Director of Mines and Geology, Department of Mines,
Veterinary Colony, Ring Road, Vijayawada, Krishna District.

..RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue any appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus directing the 3rd Respondent not to cancel the lease granted in favour of the Petitioner for a period of 15 years from 11.10.1993 to 10.10.2008 in pursuance of the proceedings of the Assistant Director of Mines and Geology, Vijayawada in his proceedings No. 1003/A/93 dated 11.10.1993 by declaring the action of the Respondents as illegal and void.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents : GP FOR INDUSTRIES & COMMERCE

WRIT PETITION NO : 19915 of 2003 :

Between:

M/s.Krishna Mohan Stone Works, H.No.54-13-2/1A, Srinivasa Nagar, Bank Colony, Vijayawada, Krishna dist. rep. by P.Krishna Mohan, Managing Partner … Petitioner

AND

1 State of Andhra Pradesh, Rep. by its Secretary to Government, Industries and Commerce (Mines-II) Department, Secretariat Buildings, Hyderabad.
2 The District Collector, Krishna District, Machilipatnam.
3 The Deputy Director of Mines and Geology, Departmnet of Mines, Kakinada, East Godavari District.
4 The Assistant Director of Mines and Geology, Department of Mines, Veterinary Colony, Ring Road, Vijayawada, Krishna District. **.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus directing the 3rd Respondent not to cancel the lease granted in favour of the Petitioner for a period of 15 years from 06.04.1994 to 05.04.2009 in pursuance of the proceedings of the Assistant Director of Mines and Geology, Vijayawada in his proceedings No.2621/Q/93, dated 06.04.1994 by declaring the action of the Respondents as illegal and void.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents : GP FOR INDUSTRIES & COMMERCE

WRIT PETITION NO : 19927 of 2003 :

Between:

M/s.Vijayalaxmi Stone Crusher, Plot No.25, 1st lane, R.T.C.colony, Vijayawada, Krishna dist., rep. by Managing Partner Y.Mohan Rso …Petitioner

AND
1 State of Andhra Pradesh, rep. by its Secretary to Government, Industries and Commerce (Mines-II) Department, Secretariat Buildings, Hyderabad.
2 The District Collector, Krishna District, Machilipatnam.
3 The Deputy Director of Mines and Geology, Departmnet of Mines, Kakinada, East Godavari District.
4 The Assistant Director of Mines and Geology, Department of Mines, Veterinary Colony, Ring Road, Vijayawada, Krishna District.
.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus directing the 3rd Respondent not to cancel the lease granted in favour of the Petitioner for a period of 15 years from 12.11.1998 to 11.11.2013 in pursuance of the proceedings of the Assistant Director of Mines and Geology, Vijayawada in his proceedings No.5671/Q/93, dated 12.11.1998 by declaring the action of the Respondents as illegal and void.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents : GP FOR INDUSTRIES & COMMERCE

WRIT PETITION NO : 19931 of 2003 :

Between:

G.Dhanumjaya Rao, s/o.Veeraiah,
r/o.Ibrahimpatnam post & mandal, Krishna dist. …Petitioner

AND
1 State of Andhra Pradesh, rep. by its Secretary to Government, Industries and Commerce (Mines-II) Department, Secretariat Buildings, Hyderabad.
2 The District Collector, Krishna District, Machilipatnam.
3 The Deputy Director of Mines and Geology, Departmnet of Mines, Kakinada, East Godavari District.

4 The Assistant Director of Mines and Geology, Department of Mines, Veterinary Colony, Ring Road, Vijayawada, Krishna District.
.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus directing the 3rd Respondent not to cancel the lease granted in favour of the Petitioner for a period of 10 years from 23.05.1997 to 22.05.2007 in pursuance of the proceedings of the Assistant Director of Mines and Geology, Vijayawada in his proceedings No.70/Q/97, dated 19.05.1997 by declaring the action of the Respondents as illegal and void.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents : GP FOR INDUSTRIES & COMMERCE

-

WRIT PETITION NO : 19993 of 2003 :

Between:

Sri Vijaya Laxmi Q WLCC Society, Putlamgattu,
Pragathinagar, Kondapalli village, Ibrahimpatnam mandal,
Krishna district, rep. by its President K.Anjaneyulu. …Petitioner

AND
1 State of Andhra Pradesh, rep. by its Secretary to Government, Industries and Commerce (Mines-II) Department, Secretariat Buildings, Hyderabad.
2 The District Collector, Krishna District, Machilipatnam.
3 The Deputy Director of Mines and Geology, Departmnet of Mines, Kakinada, East Godavari District.
4 The Assistant Director of Mines and Geology, Department of Mines, Veterinary Colony, Ring Road, Vijayawada, Krishna District. **.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus directing the 3rd Respondent not to cancel the lease granted in favour of the Petitioner for a period of 10 years from 16.07.1998 to 15.07.2008 in pursuance of the proceedings of the Assistant Director of Mines and Geology, Vijayawada in his proceedings No.1435/Q/96, dated 16.07.1998 by declaring the action of the Respondents as illegal and void.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents : GP FOR INDUSTRIES & COMMERCE

)WRIT PETITION NO : 20096 of 2003 :

Between:

A.satyanarayana, s/o.A.Maraiah, c/o.A.Rama Rao, D.No.7-65,
Panchayat Office Road, Kondapalli village, Ibrahimpatnam mandal,
Krishna district, …Petitioner

AND
1 State of Andhra Pradesh, rep. by its Secretary to Government, Industries and Commerce (Mines-II) Department, Secretariat Buildings, Hyderabad.
2 The District Collector, Krishna District, Machilipatnam.
3 The Deputy Director of Mines and Geology, Departmnet of Mines, Kakinada, East Godavari District.
4 The Assistant Director of Mines and Geology, Department of Mines, Veterinary Colony, Ring Road, Vijayawada, Krishna District.
.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus directing the 3rd Respondent not to cancel the lease granted in favour of the Petitioner for a period of 10 years from 12.01.1994 to 11.01.2004 in pursuance of the proceedings of the Assistant Director of Mines and Geology, Vijayawada in his proceedings No.1324/Q/93, dated 12.01.1994 by declaring the action of the Respondents as illegal and void.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents : GP FOR INDUSTRIES & COMMERCE

)WRIT PETITION NO : 20248 of 2003:

Between:

1 V.Rammohana Rao, s/o. Jaganadha Rao,
r/o. Kondapallli, Ibrahimpatnam Mandal,
Krishna Dist.
2 S.Raghuram s/o. Venkatarama Subramanyam,
r/o. D.No.40-9/4-24 Municipal Employees Colony,
Sarada nagar, Vijayawada, Krishna Dist.
3 Vijaya Jyothi Stone Crusher, rep. by its Managing Partner K.Vani Kumari, w/o. Radha Krishna
r/o. Jyothi Nilayama, Near Nirmala Kanvent,
Benzi Circle, Vijayawada, Krishna Dist.

..... PETITIONERS

AND

1 Govt.of Andhra Pradesh, Department of Mines & Geology,
rep. by its Secretary, Industries & Commerce (Mines-II) Dept.,
Secretariat, Hyderabad
2 The Deputy Director of Mines & Geology, Kakinada, E.G.Dist.
3 The Dist.Collector, Krishna Dist.
4 The Assistant Director of Mines & Geology, Veterinary colony,
Ring Road, Vijayawada, Krishna Dist.
5 The Sub-Collector, Vijayawada, Krishna Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus, declaring the action of the respondents in not renewing the mining leases granted in favour of the petitioners in R.S.No.1 of Kondapally village, Ibrahimpatnam, Krishna District, and in not permitting them to operate the quarrying operations as illegal, arbitrary, unconstitutional and without any power or authority and consequently direct the respondents to renew the mining leases granted to the petitioners in R.S.No.1 of Kondapally village, Ibrahimpatnam, Krishna District and permit them to operate the mines.

Counsel for the Petitioners: MR.T.RAJENDRA PRASAD

Counsel for the Respondents: GP FOR INDUSTRIES & COMMERCE

WRIT PETITION NO : 20312 of 2003

Between:

1 Baji Babu Constructions, rep.by its Managing Partner Sri.V.Rama Mohan Rao S/o.Jaganadha Rao R/o.Kondapalli, Ibrahimpatnam Mandal Krishna District.
2 M/s.Chaitanya Granite Metal Works, rep.by Managing partner Sri P.Chaitanya S/o.P.R.K.Prasad, R/o.10-33, Varalakshmi Puram, Ashok Nagar, Vijayawada, Krishna District
3 P.Karunakaar, S/o.Venkaiah R/o.Krishna Venam Villagae, Kiralampudi Mandal E.G.District.
4 M/s.Vengamamba Engineering company, rep.by its Proprietor P.Venkaiah S/o.late China Venkaiah, Krishna Venam Village, Kirshna Venam Village, Kirlampudi Mandal E.G.District.
5 S.Kadareswara Rao, S/o.Radha Krishna, R/o.Ibrahim Patnam Vijayawada, Krishna District.
6 S.Kadareswara Rao, S/o.Radha Krishna R/o.Ibrahim Patnam, Vijayawada, Krishna District
7 M/s.Venkataraman Granite Metal Works, rep.by Proprietor, Sri S.Raghuram

S/o.Venkatarama Subramanyam, R/o.D.No.40-9/4-24, Municipal Employees Colony Sarada Nagar, Vijayawada, Krishna District
8 M/s.Swaroopa Granite Metal Works, rep.by Managing partner Sri K.Nageswara Rao, s/o.Nagaiah, R/o.76-8/1-19/1, Lalithanagar, Bhavanipuram, Vijayawada, Krishna District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, Department of Mines and Geology, rep.by its Secretary, Industries and Commerce (Mines-II)Department, Secretariat, Hyderabad
2 The Deputy Director of Mines and Geology Kakinada, East Godavari District.
3 The District Collector, Krishna District
4 The Assistant Director of Mines and Geology Veterinary Colony, Ring Road, Vijayawada.
5 Sub-Collector, Vijayawada, Krishna district.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus directing the 2nd respondent not to cancel the mining leases granted in favour of the petitioners herein by declaring the action of the respondents in proposing to cancel the leases of the petitioners as illegal, arbitrary unconstitutional, without any power or authority and further direct the respondents to permit the petitioners to operate the quarrying operation as long as their leases are existing in R.S.No.1 of Kondapally Village, Ibrahimpatnam, Krishna district.

Counsel for the Petitioners:MR.T.RAJENDRA PRASAD

Counsel for the Respondents: G.P. FOR INDUSTRIES AND COMMERCE,

WRIT PETITION NO : 20340 of 2003

Between:

G.Dhanumjaya Rao s/o.Veeraiah
Ibrahimpatnam Post & Mandal Krishna District.

..... PETITIONER

AND

1 State of Andhra pradesh, rep.by its Secretary to Government Industries and Commerce(Mines-II)Department, Secretariat buildings, Secretariat, Hyderabad.
2 District collector, Krishna District, Machilipatnam
3 Deputy Director of Mines and Geology, Department of Mines Kakinada, East Godavari District.
4 Assistant Director of mines and Geology Department of Mines, veterinary

Colony, Ring Road, Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction more particularly one in the nature of a writ of Mandamus directing the 3rd respondent not to cancel the lease granted in favour of the petitioner for a period of 10 years from 23.5.1997 to 22.5.2007 in pursuance of the proceedings of the Assistant Director of Mines and Geology, Vijayawada in his proceedings No.271/Q/97 dated 19.5.1997 by declaring the action of the respondentS as illegal and void.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents: G.P. FOR INDUSTRIES & COMMERCE,

WRIT PETITION NO : 20399 of 2003

Between:

Orsu China Koteswara Rao, S/o.Venkaiah,
Kondapalli Village, Ibrahimpatnam Mandal,
Krishna Dist.

..... PETITIONER

AND

1 State of A.P., rep.by its Secretary to Govt., Industries and Commerce (Mines-II) Dept., Secretariat Buildings, Hyderabad.
2 Dist.Collector, Krishna Dist. Machilipatnam.
3 Dy.Director of Mines & Geology, Dept.of Mines, Kakinada, E.G.Dist.
4 Asst.Director of Mines & Geology, Dept. of Mines, Veterinary Colony, Ring Road, Vijayawada, Krishna Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction more particularly one in the nature of writ of mandamus directing the 3rd respondent not to cancel the lease granted in favour of the petitioner for a period of 10 years from 27-5-1997 to 26-5-2007 in pursuance of the proceedings of the Deputy Director of Mines & Geology, Kakinada in his proceedings No.722/Q/97 dated 15-6-1997 by declaring the action of the Respondents as illegal and void.

Counsel for the Petitioner:MR.A.RAMALINGESWAR RAO

Counsel for the Respondents: G.P. FOR INDUSTRIES & COMMERCE,

WRIT PETITION NO : 20580 of 2003

Between:

V. Kondala Rao s/o V. Veeraswamy
R/o Kondapalli Village, Ibrahimpatnam Mandal Krishna District

..... PETITIONER

AND

1 State of Andhra Pradesh, Rep. by its Secretary to Government Industries and Commerce (Mines-II) Department, Secretariart Buildings, Secretariat, Hyderabad
2 District Collector, Krishna District, Machilipatnam
3 Deputy Director of Mines and Geology, Department of Mines, Kakinada, East Godavari District
4 Assistant Director of Mines and Geology, Department of Mines, Veterinary Colony, Ring Road, Vijayawada, Krishna District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or Direction more particularly one in the nature of a Writ of Mandamus directing the 3rd Respondent not to cancel the lease granted in favour of the Petitioner for a period of 10 years from 20-10-1995 to 19-10-2005 in pursuance of the proceedings of the Deputy Director of Mines and Geology, Kakinada, in his proceedings No., 2382,M/2/85 dated 18-10-1995 by declaring the action of the Respondents as illegal and void.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondent No.: G.P.FOR INDUSTRIES & COMMERCE,

WRIT PETITION NO : 20717 of 2003

Between:

M/s.Standard Granite Crusher, Kattubadipalem Village, G.Konduru (M) Krishna District, rep.by its Managing Partner, M.S.Pillai

..... PETITIONER

AND

1 State of Andhra Pradesh, rep.by its Secretary to Government Industries and Commerce(Mines-II) Department, Secretariat, Buildings, Secretariat, Hyderabad,.
2 District Collector, Krishna District, Machilipatnam.

3 Deputy Director of Mines and Geology, Department of Mines Kakinada, East Godavari District.
4 Assistant Director of Mines and Geology, Department of Mines Veterinary Colony, Ring Road, Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction more particularly one in the nature of a writ of Mandamus directing the 3rd respondent not to cancel the lease granted in favour of the Petitioner for a period of 15 years from 3-2-1995 to 2-2-2010 in pursuance of the proceedings of the Assistant Director of Mines and Geology, Vijayawada in his proceedings No.4345/Q/94 dated 30.03.1995 by declaring the action of the Respondents as illegal and void.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents.: G.P.FOR INDUSTRIES & COMMERCE,

WRIT PETITION NO : 21112 of 2003

Between:

M/s. Venkataramana Stone Crusher, Rep. by. Popr. Smt. E. Parvthamma, W/o. Atchaiah, R/o. Mulapadu Village, Ibrahimpatnam Mandal, Krishna District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Department of Mines and Geology, Rep. by its Secretary, Industries and Commerce (Mines-II) Department, Secretariat, Hyderabad.
2 The Deputy Director of Mines and Geology, Veterinary Colony, Ring Road, Vijayawada.
3 The District Collector, Krishna District.
4 The Assistant Director of Mines and Geology, Veterinary Colony, Ring Road, Vijayawada.
5 Sub-Collector, Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of Writ of Mandamus directing the 2nd respondent not to cancel the mining leases granted in favour of the petitioners herein by declaring the action of the respondents in proposing to cancel the leases of the petitioners as illegal, arbitrary, unconstitutional, without any power or authority and further direct the respondents to permit the petitioners to operate the quarrying operations as long as their leases are existing in R.S. No.1 of Kondapally Village, Ibrahimpatnam, Krishna District.

Counsel for the Petitioner: MR.T.RAJENDRA PRASAD

Counsel for the Respondents: G.P.FOR INDUSTRIES & COMMERECE,

WRIT PETITION NO : 3816 of 2004

Between:

Smt. V. Prameela, W/o. Lakshmi Narayana,
Ibrahimpatnam Mandal, Krishna District.

..... PETITIONER

AND

1 State of Andhra Pradesh, rep., by its Secretary to Government, Industries and Commerce [Mines-II], Department, Secretariat Buildings, Secretariat, Hyderabad.
2 District Collector, Krishna District, Machilipatnam.
3 Deputy Director of Mines & Geology, Department of Mines, Kakinada, E.G.District.
4 Assistant Director of Mines and Geology, Department of Mines, Veterinary Colony, Ring Road, Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction more particularly one in the nature of a Writ of Mandamus directing the 3rd respondent not to cancel the lease granted in favour of the Petitioner for a period of 10 years from 11.3.1998 to 10.3.2008 in pursuance of the proceedings of the Assistant Director of Mines and Geology, Vijayawada in his proceedings No.5905/Q/91 dated 11.3.1998 by declaring the action of the respondents as illegal and void.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents: GP FOR INDUSTRIES & COMMERCE,

WRIT PETITION NO : 7657 of 2004

Between:

V.Rajya Lakshmi, w/o V.Kondala Rao,
r/o Kondapalli Village, Ibrahimpatnam Mandal,
Krishna District.

..... PETITIONER

AND

1 State of Andhra Pradesh, rep., by its Secretary to Government, Industries and Commerce (Mines-II) Department, Secretariat Buildings, Secretariat, Hyderabad.
2 District Collector, Krishna District, Machilipatnam.
3 Deputy Director of Mines and Geology, Department of Mines, Kakinada, East Godavari District.
4 Assistant Director of Mines and Geology, Department of Mines, Veterinary Colony, Ring Road, Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction more particularly one in the nature of a writ of mandamus directing the 3rd respondent not to cancel the lease granted in favour of the petitioner for a period of 10 years from 30-12-1995 to 29-12-2005 and 4-11-1997 to 3-11-2007 in respect of an extent of 0.202 hectares and 1.000 hectares respectively granted by the Assistant Director of Mines & Geology, Vijayawada by declaring the show cause notice No.4572/Q3/2001-11 & 23 dated 22-2-2002 of the 3rd respondent as illegal and void

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents: GP FOR INDUSTRIES & COMMERCE,

G.P. FOR MINES AND GEOLOGY.

-

Common Order:

Heard the learned Counsel for the petitioners and the Government Pleaders appearing on behalf of the respondents herein.

2. Since common question is involved in all these writ petitions, they are being taken up together for disposal.

3. The petitioners in these writ petitions, who are the holders of quarry lease, filed these writ petitions, inter alia, seeking writ of Mandamus directing the authorities not to cancel the mining leases granted in their favour and by declaring the action of the respondents in proposing to cancel said leases, as illegal and to further direct the respondents to permit the petitioners to operate the quarrying operations as long their leases are existing in R.S.No.1 of Kondapalli Village, Ibrahimpatnam Mandal,

Krishna District. The case of the petitioners in brief is that each of them was granted quarrying lease for quarrying road metal under various separate proceedings for different periods by the competent authorities of the Mines and Geology Department and they have been operating the mines and paying regularly the taxes, fees etc., to the Government. All these leases have been granted in land bearing R.S.No.1 of Kondapalli Village, which was being granted since the year 1976. The total extent of the said R.S.No.1 is Acs.397.51 cents, which is classified as Government un-assessed waste dry land. Said leases have granted after following due process, including after obtaining the no objection certificate from the revenue department. However, the Deputy Director of mines and Geology, Kakinada, suddenly issued a telegram in the month of January, 2002 to all the leaseholders asking them to stop quarrying operation in the said land on the ground that the Sub-Collector, Vijayawada vide his letter dated 22-01-2002 reported that the area in R.S.No.1 of Kondapally Village stands classified as 'Adavi' and therefore requested to cancel all such quarry leases, as per the provisions of the Forest (Conservation) Act, 1980. Therefore, the Assistant Director of Mines, Vijayawada had issued a letter dated 24-01-2002 to all the quarry leaseholders to stop the quarrying operations immediately, this was followed by show cause notice dated 22-02-2002 seeking explanation, whereupon the petitioners have filed their applications asking for certain documents for enabling them to file explanation. Thereafter, they have filed detailed explanations. On the representations of the petitioner,s the Government, as per the Memo Dated 07-03-2002 granted stay of the proceedings before the mining authorities. However, it was stated that no quarrying operation shall be permitted during the said period. Therefore, it is the case of the petitioners that they are not being able to operate the mines and therefore they are put to greater hardship and loss, since they invested substantial amounts running into the lakhs for the business. Further, under their employment there are about 5,000 employees are working and they will be left without any work. The main contention urged on behalf of the petitioners is that in fact the land R.S.No.1, Kondapally village is not a reserved forest, nor it was declared as such and therefore the Forest (Conservation) Act, 1980 is not applicable. It is only in the revenue records in the column it is written as 'Adavi' by mistake and without there being any basis, whereas, it is un-assessed waste dry land. On the representations filed by the petitioners and as per the directions issued by the Government on 07-03-2002 for conducting a joint inspection by officials of Forest, Mines, Survey and Land Records and Revenue Departments

under the supervision of Joint Collector, the joint inspection was conducted on 05-04-2002 and accordingly report was submitted by the said committee stating that the land is a Government un-assessed waste dry land and in spite of the same the respondents are treating the said land as forest land and stopping the quarrying work. Further, it was pointed out that the said land is 0.1 to 1.25 Kms distance from the notified forest area and leases have been regularly granted even much before coming into force of the Forest (Conservation) Act, 1980. Therefore, the said provisions cannot be made retrospective in its operation. Thus, it is the prime contention of the petitioners that the land is not a forest land and therefore any impugned action on the part of the respondents and stopping the mining work in spite of the leases granted in their favour, is wholly arbitrary, illegal and without jurisdiction. Hence, the Writ Petitions.

4. In the counter-affidavit, filed by the respondents herein, there is no serious dispute in regard to the grant of leases in favour of the various petitioners by the concerned authorities and they also referred to certain proceedings between the parties arising out of the request for renewal etc., which is not relevant for the purpose of this enquiry. It was also admitted that telegraphically the petitioners were asked to stop quarrying, since it was reported by the Sub Collector, Vijayawada that the said land stands classified as ‘Adavi’ and sought for cancellation of all leases. Therefore, after issuance of notices to all the quarrying leaseholders, and asking them to stop mining work show causes notices have been given and petitioners have filed their due explanations. Meanwhile, the Government has issued the memo dated 07-03-2002 staying the mining operations by the petitioners. There is also no dispute in regard to the direction given by the Government for making a joint inspection and submission of a report. As per the report submitted by the committee it was shown that the said land was recorded in the revenue records as ‘Adavi’. Therefore, necessary action has to be taken under the provisions of the Forest (Conservation) Act, 1980 for cancellation of the leases. It was also pointed out that the petitioners have been advised to approach the forest department for getting proper clearances. Thus, even according to them in view of the principles laid down by the Supreme Court, since the petitioners leased area is classified as ‘adavi poramboke’ the question of quarrying lease does not arise. Hence, sought for dismissal of the writ petitions.

5. At the time of admission, this Hon’ble Court after taking into consideration the

report of the committee issued interim directions permitting them for carrying on the quarrying operations. After contest, and on appeal, the Division Bench of this Court allowed the appeals filed by the State Government, as per the orders in W.A.No.1009 of 2004 and batch, as per the order dated 21-07-2004 and vacated the interim directions. It was held in the said orders that even as regards the prima facie case and balance of convenience, joint Survey No.1 of Kondapalli village is recorded as un-assessed, as per the revenue survey and since 'Adavi' is also mentioned in the remarks column, the provisions of Forest Conservation Act, 1980 would apply. It was also taken into consideration that there is no manner of doubt as on the date when the writ petitions were filed, the writ petitioners were not operating the quarries, because the prohibition imposed by the authorities concerned and ultimately writ petitions were directed to be placed for hearing.

6. After hearing the counsel on either side and on perusal of the material, the main question which crops up for consideration is, whether the land in R.S.No.1 of Kondapalli Village, in which the leases have been granted to the petitioners is a forest land and whether the provisions of the Forest Conservation Act, 1980 would apply and thereby resulting the cancellation of leases held by the petitioners.

7. There is no dispute to the fact that the land in its entire extent in R.S.No.1, kondapalli village is Acs.397.51 cents, which itself is a large chunk and admittedly belongs to the Government. The leases are been granting regularly even much before the enforcement of the Forest Conservation Act, 1980. Accordingly, as per the provisions of the A.P. Minor Mineral Concession Rules, 1966 and following the due procedure and obtaining the no objection certificate from the revenue side, the leases have been granted in favour of the petitioners for various extents and for different periods. Though it is the case of the petitioners that they have already commence the work, but the same appears to be not correct, especially in view of the immediate action taken by the respondents herein in stopping the work. The main contention urged on behalf of the petitioners is that the said land is not in fact a Forest land and there is no due notification as contemplated under Forest Act declaring it as a forest area, nor notified as such and therefore the said land cannot be treated as forest land. Apparently, it is the case of the petitioners, that it is only due to the entry made in the revenue records as 'Adavi' the respondents have assumed that it is a forest land and therefore no leases are permissible. Such mere entry would not in fact make it as a forest land, unless and until it is declared as a

forest area as contemplated under the law. Admittedly, there is no such notification, nor any other material in support of their case. Therefore, mere entry in the revenue records is not a conclusive, nor would take away leasehold rights of the petitioners, which are being granted all along regularly and mining operations are been carried on. There is no dispute to the effect that though the Sub Collector concerned has written a letter to the other authorities saying it as a forest land, in view of such entry as 'adavi' in the revenue records and to take steps for cancellation of the leases, no other material is pointed out that it is a forest land. Even the counter-affidavit filed by the 4th respondent i.e., Assistant Director of Mines and Geology, does not show, nor would give any particulars as to the basis for such treatment to the land as forest. Surprisingly, no counter-affidavits are being filed by the respondent No.1 or Deputy Director of Mines and Geology to make things clear. There is no proper explanation forthcoming on their behalf, as to why proper counter-affidavits are not filed with all true facts and particulars. The petitioners are also conveniently avoided making the forest officials or the concerned departments as party to these writ petitions, even in this regard, especially when the case of the respondents is that it is a forest land, no explanation is forthcoming for such non-impleadment. In fact, in view of such plea and denial that it is not a forest land, the petitioners should have made them as parties so that Court would have enough assistance in this regard, so as to come to conclusion from a proper perspective. Further, admittedly as per the Forest conservation Act, 1980 the competent authority to grant necessary permission is only the Central Government and the respondents are also have been insisting the petitioners to obtain necessary permissions or clearance from the central Government before they proceeded with any such mining operations. Even on this count, no reason has been shown as to why the central government authorities are not made parties to these writ petitions. Thus, the petitioners are conveniently avoided to implead, the central Government authorities, whose presence is not only necessary but amply proper and seeking any relief in their absence is prima facie a fatal one.

8. In regard to the principles laid down for disentitling carrying of any operations in forest area, the Supreme Court has already held repeatedly in K.M.CHINNAPPA v. UNION OF INDIA and T.N.GODAVARMAN THIRUMULKPAD v. UNION OF INDIA and gave necessary directions to the State Governments for constitution of committees for identifying the forests. On behalf of the respondents, nothing has

been pointed out as to any such steps are been taken by them and forest areas are identified.

9. Though a reliance was sought to place on behalf of the petitioners in the decision of the Division Bench of this Court in SAMATHA Vs. STATE OF A.P., wherein this Court after considering the provisions of the A.P. Scheduled Areas Land Transfer Regulation, 1959 and the Mines and Minerals (Regulation and Development) Act, 1957, it was held that there is no provision prohibiting the grant of leases in the agency area for the purpose of mining operations, until Sec.11(5) of the Act No.67 of 1957 was amended by a notification issued by Governor prohibiting grant of leases to non-tribals in agency areas, the said decision would not come to any aid of the petitioners herein and in view of the larger questions, especially applicability of the Forest Conservation Act, 1980 and in view of the principles and directions as given by the apex Court, it is not necessary to dwell into the provisions of the Forest Conservation Act, 1980 and the prohibitions as contained therein.

10. In this Court, as already observed, except the bare entry as 'Adavi', no evidence is forthcoming from either side and in the absence of proper assistance from the proper quarters, this Court would not be in a position to go into such questions and come to any conclusion. It is also needless to point out that even in between the two departments of the State Government i.e., mining and forest, there appears to be no proper report there is no attempt on the part of the mining authorities to check and verify as to whether the land for which the mining leases are been granted is a forest area and prohibition applies. The leases are been granted in a routine way without any consultation as such from the forest department. Though as per the procedure as contemplated for grant of lease under the mining regulations, there is no pre-condition as such to obtain any clearance certificate as sought to be done from the revenue authorities. In spite of laying down the principles and giving directions, apparently. no serious attempt has been made by the State Government to see that forest areas are properly identified, so as to give effect to the directions and make the bar into a real enforcement. In the aforesaid circumstances, there is no other alternative, but to have a proper and due consideration jointly with all the concerned, as to take a decision on the identification of the various areas for the proper implementation of the Forest Conservation Act, 1980.

11. In the circumstances, I do not find any justification to show any indulgence in favour of the petitioners herein, unless and until proper verification is done. As

already observed, in the absence of any such exercise, any mining operations would not only in the teeth of the mandate contained under Forest Conservation Act, 1980, but also would seriously effect the ecology, as pointed out by the apex Court. In the event, if it is ultimately found that land is not a forest land and the petitioners are entitled to carrying on operation, as already observed by the Division Bench in the above appeal, they can successfully make a claim for damages.

12. In the circumstances, the Writ Petitions are disposed of directing respondent No.1 herein to take immediate steps for proper identification of the forest areas jointly with all the concerned departments viz., Mines, Forests, Revenue and also with due notice to and representation from the Central Government before any action is taken. The entire such exercise shall be completed within a period of two months and ultimate decision shall be under due intimation to the petitioners/quarry leaseholders. It is needless to mention that till completion of the enquiry, no cancellation order be passed. No costs.

_____

B.PRAKASH RAO, J.

Dated 28-09-2004.

skmr

To

1.The Secretary, State of A.P.,

Industries & Commerice (Mines II),

Department, Secretariat Buildings,

Hyderabad.

2. The District Collector,

Krishna District,

Machilipatnam.

3. The Deputy Director of Mines & Geology,

Department of Mines, Kakinada,

East Godavari District.

4. The Assistant Director of Mines & Geology,

Department of Mines, Veterinary Colony,

Ring Road, Vijayawada, Krishna District.

5. The Assistant Director of Mines and Geology,

Department of Mines, Kakinada,

East Godavari District.

6. The Sub Collector, Vijayawada,

Krishna District.

7. The Deputy Director of Mines & Geology,

Veterinary Colony, Ring Road,

Vijayawada.

8. 2CCs each to G.P. for Industries & Commerce and G.P. for Mines &

Geology, High Court of A.P., Hyderabad (OUT).

9. 2CD copies